

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 567

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ADMINISTRATIVE PROCEDURES; AMENDING SECTION 67-5250, IDAHO  
2 CODE, TO REVISE THE TYPE OF MATERIALS THAT SHALL CONSTITUTE AGENCY GUID-  
3 ANCE AND TO PROVIDE THAT ANY STATEMENT IN AN AGENCY GUIDANCE DOCUMENT  
4 THAT MEETS THE DEFINITION OF A "RULE" AS SPECIFIED BY LAW SHALL NOT BE  
5 FOLLOWED OR APPLIED UNTIL THE STATEMENT IS ADOPTED AS A RULE THROUGH THE  
6 RULEMAKING PROCESS.  
7

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Section 67-5250, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11 67-5250. INDEXING OF PRECEDENTIAL AGENCY ORDERS -- INDEXING OF AGENCY  
12 GUIDANCE DOCUMENTS. (1) Unless otherwise prohibited by any provision of law,  
13 each agency shall index all written final orders that the agency intends to  
14 rely upon as precedent. The index and the orders shall be available for pub-  
15 lic inspection and copying at cost in the main office and each regional or  
16 district office of the agency. The orders shall be indexed by name and sub-  
17 ject.

18 A written final order may not be relied on as precedent by an agency to  
19 the detriment of any person until it has been made available for public in-  
20 spection and indexed in the manner described in this subsection.

21 (2) Unless otherwise prohibited by any provision of law, each agency  
22 shall index by subject all agency guidance documents. The index and the  
23 guidance documents shall be available for public inspection and copying at  
24 cost in the main office and each regional or district office of the agency.  
25 As used in this section, "agency guidance" means all written documents,  
26 other than rules, orders, and pre-decisional material, that are intended to  
27 guide agency actions affecting the rights or interests of persons outside  
28 the agency. "Agency guidance" shall include memoranda, manuals, policy  
29 statements, interpretations of law or rules, and other material ~~that are~~  
30 ~~of general applicability,~~ whether prepared by the agency alone or jointly  
31 with other persons. The indexing of a guidance document does not give that  
32 document the force and effect of law or other precedential authority. Any  
33 statement in an agency guidance document that meets the definition of a  
34 "rule" as provided in section 67-5201(19), Idaho Code, shall not be followed  
35 or applied by any agency until the statement is adopted as a rule through  
36 rulemaking in compliance with the provisions of this chapter.